Ms PALASZCZUK: I am advised by both the minister for the commonwealth games and the minister for industrial relations that the matter is before the courts. We have an understanding in this House that if matters are before the court we do not speak about them in this House.

An opposition member interjected.

Ms PALASZCZUK: Yes, in the federal court. Perhaps you need to raise it with some of your colleagues in the federal government. As I said very clearly, my government has a very firm commitment to delivering the Commonwealth Games.

Honourable members interjected.

Mr SPEAKER: Pause the clock. Minister for Industrial Relations, I would ask you not to provoke the opposition or you will be warned.

Ms PALASZCZUK: The $320 million games venues program is an investment in sport and community infrastructure that is generating more than 1,000 jobs during the design and construction phase and will drive long-term economic benefits by attracting elite athletes and word-class events to Queensland for decades to come. It is about time we saw some positive indications from those opposite about whether they are supporting the Commonwealth Games or not. Honestly!

Mr Pitt interjected.

Ms PALASZCZUK: I will take that interjection. Once again they are talking down the Commonwealth Games. They talk down the Queensland economy. Is there anything that they have anything positive to say about?

Mr SPEAKER: Thank you, Premier. I do not want you to have a debate with the opposition. I think you have answered the question. >

<Vocational Education and Training

Mr CRAWFORD: <My question is for the Attorney-General and Minister for Training and Skills. >Will the minister please update the House on the recognition of high performing vocational education and training provided in Queensland?

Mrs D'ATH: I thank the member for Barron River for his question. Over the past couple of months regions all across the state have been holding their regional finals in the lead-up to the state finals of the Queensland Training Awards which will be held on Friday, 9 September. I would like to recognise those members who attended these finals in their regions, including the member for Barron River who joined me in Cairns. These awards, now in their 55th year, are a wonderful opportunity to celebrate the state's top training achievers. Across 12 categories the awards recognise individuals and organisations that strive for and have achieved success, best practice and innovation in the vocational education and training area. The awards showcase all that is great about VET in Queensland with categories for apprentices, trainees, school based apprentices and trainees, teachers and trainers, as well as training providers and employers.

A quality field of more than 660 nominees entered this year. Sixty-two were announced as the best in their region at seven exciting regional finals during July and August. I want to acknowledge all of those nominees and the successful winners at the regional awards. I wish them all the best as they head towards the state awards. I look forward to seeing the winners of those state awards join me at the National Training Awards later this year in Darwin.>

Mr SPEAKER: Question time has finished. We will now proceed to the introduction of private members' bills. I am informed that we have another group of students from St Anthony's Primary
013 School, Kedron, in the electorate of Stafford, observing our proceedings from the public gallery.

<LIMITATION OF ACTIONS AND OTHER LEGISLATION (CHILD ABUSE CIVIL PROCEEDINGS) AMENDMENT BILL

Introduction

Mr PYNE (Cairns—Ind) (11.35 am): <I present a bill for an act to amend the Civil Liability Act 2003, >the Civil Proceedings Act 2011, the Limitation of Actions Act 1974, the Personal Injuries Proceedings Act 2002 and the Personal Injuries Proceedings Regulation 2014 for particular purposes. I table the bill and explanatory notes. I nominate the Legal Affairs and Community Safety Committee to consider the bill.

Tabled paper: Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016.

Tabled paper: Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016, explanatory notes.

I would first like to commend the government and the opposition for their comments of bipartisan cooperation for the retrospective removal of civil statutory time limits for victims of child sexual abuse in institutions. This parliament has a responsibility to represent all survivors of child abuse and to ensure equal rights of access to justice. Access to justice should not be dependent on whether or not child abuse occurs within an institution, nor should it be dependent on whether the child abuse was sexual in nature or whether it involves serious physical abuse. Similarly, survivors of abuse who have been subjected to unjust settlement deeds, trapping them forever within time limits, deserve equal rights of access to justice. I thank the Leader of the Opposition and others who have spoken in this House against discrimination and in favour of legislation that creates equality for victims of abuse. The bill I introduce today creates that equality.

Many organisations and individuals have contributed to the development of the policy objectives of this bill—too many to name. Special gratitude is extended to: Hetty Johnston AM, founder and chair of Bravehearts; Carol Ronken, director of policy and research development and the executive research advisory panel of Bravehearts; the Queensland Child Sexual Abuse Law Reform Council; the Indigenous Lawyers Association—in particular their president Linda Ryle and members of the board; Dr Cathy Kezelman AM on the board of directors and the expert advisory panel of the Blueknot Foundation; Dr Michelle Meyer and the board of directors of Tzedek, a wonderful organisation working tirelessly to support victims and to prevent child abuse in the Jewish community; and to those individuals who have contributed and for whom this bill has been created but whom prefer their privacy, due to being survivors of childhood abuse, I say thank you.

014 On this matter Hetty Johnson AM, the founder and chair of Bravehearts, which is probably the most recognised advocacy organisation in Australia representing the largest number of survivors of child abuse, is actively involved in both caring for victims of abuse as well as important child abuse prevention work. She has said—

Justice and equality has to apply equally to everyone; they are all victims, you can't treat one differently from the other.

The time limits defence has been used by institutions to bully and force victims in the past to accept mega settlements from the church, and secret ones at that.

These are children who have been assaulted and harmed; give to them fair, just and equitable access to the law.

The bill puts forward important reforms that aim to create equal justice for survivors of childhood abuse and prevent any discrimination on the basis of context, type of abuse and past unjust settlements. The bill provides equal rights before the law to access to the court and to have evidence tested in the usual way. The rules of evidence are not diminished by this bill; a claimant must still prove their case. The bill means that whether you were abused as a child in an institution, by a family member or by some other individual under other circumstances, you will have an equal right to take civil action against the offender.

The bill is inclusive of children who have suffered serious physical abuse leading to long-term psychological injury. The bill recognises that the consequence of trauma and of severe prolonged physical abuse can be as damaging as sexual abuse. I thank the Leader of the Opposition and others for their comments in this House in support of legislation that extends the definition of child abuse beyond sexual abuse and to include serious physical abuse. The bill I introduce gives survivors of such abuse equal rights before the law.

Perhaps the greatest injustice that impacts the greatest number of survivors of child abuse is the barrier from effective right of action for all the many victims of abuse in this state who are subject to a deed of release for the injuries arising from their shocking abuse whilst children. I have heard from numerous survivors and prominent survivor advocacy organisations that all tell me of similar experiences in relation to the so-called settlements. Those settlements are not true or just settlements at law. They were not made by equal parties on a level playing field. There was obvious and great asymmetry between the vulnerable and resourceless survivor of child abuse and the wealthy and powerful institutions that allowed that child to be abused. The very law itself, now proven to be unjust by the Royal Commission into Institutional Responses of Child Sexual Abuse, caused immense duress upon survivors of child abuse when trying to exercise a right of action. Survivors have told me of their experiences through these legal processes, legal proceedings that are the result of limitation of actions and personal injury proceedings legislation endorsed by this House.

One survivor, wanting nothing more than to get health care to heal the trauma and to become functional and productive in the workplace, took action against the institution responsible for the abuse. The institution never denied the abuse occurred and even made admissions as to having evidence of the abuse occurring. It is my understanding that strong evidence of the liability of this institution is currently before the royal commission. All that mattered to the institution was that the victim of the child abuse was now out of time. Despite the cost of health care and education, and this person's obvious suffering and desire to get well, the institution offered zero dollars. The institution then offered an ex gratia settlement of $15,000, only if the survivor agreed to sign a deed of release, releasing the institution from any future action for damages. The survivor tells me they wanted to refuse this offer because of the indignity it represented. However, they face the threat of having to pay significant legal costs to the institution should they refuse to settle. As well, the survivor's own lawyer advised them to settle or otherwise be immediately liable for their own lawyers' fees of many thousands of dollars. The conduct of all the parties in this situation was lawful under the current legislation, but that does not make it moral or just.

I have shared with permission the experiences of one survivor of childhood abuse, but I am aware that their experience is a common experience shared by the majority of survivors who have found themselves subjected to those unjust settlements under the time limits legislation. Those of us fortunate enough not to have endured such terrible child abuse may not understand that even the act of confronting the institution and sitting in a small room with representatives from the institution, sometimes wearing the same religious clothing as their abusers, can be a significant psychological trigger. The power imbalance inherent in the acts of abuse perpetuated against those young children is replicated in the so-called negotiation process that led to those unjust settlements and combines with the time limits barrier to create substantial duress upon the claimant. Survivors of abuse have told me of the indignity of having their childhood abuse being bartered by men in suits arguing only about legal points, such as whether or not the claim was within time, and no-one in the room caring about the truth or caring about their suffering or practical need for healing.

This House must create a sensible framework for revoking those past unjust settlements. This House cannot in all fairness acknowledge the injustice of the time limits and yet fail to address the production of those time limits, which is those unjust settlements. I join the opposition in supporting legislation to remove the time limits for the survivors. I believe that any legislation that fails to revoke past settlements where those settlements are the product of the time limits defence fails to comply with the recommendations of the royal commission.

This bill puts forward a framework for allowing past settlements to be reactioned. This only applies to settlements that were unfairly impacted by the time limits. It will not apply to settlements properly tried on their merits or settlements heard within time or where the limits were not a factor in the settlement. These are sensible safeguards in relation to reactioning past settlements.

In addition to the above, this bill offers two further reforms to remove unjust barriers that currently prevent survivors of abuse from accessing the court to have their evidence heard and tested. Survivors of child abuse were denied the right to a jury trial in 2003. That meant that all matters pertaining to injury from child abuse are heard by a single judge. In 2011, the Queensland Law Reform Commission stated—

> Public participation in the administration of justice is a part of our legal tradition. Through the jury system, members of the public become part of the court itself. This ought to enhance the acceptability of decisions, and contribute to a culture in which the administration of justice is not left to a professional cadre but is understood as a shared community responsibility.

In the High Court of Australia, in Kingswell v the Queen, Justice Deane observed—

> The nature of the jury as a body of ordinary citizens called from the community to try the particular case offers some assurance that the community as a whole will be more likely to accept a jury's verdict than it would be to accept the judgment of a judge or magistrate who might be, or be portrayed as being, over-responsive to authority or remote from the affairs and concerns of ordinary people.

In 2003, the removal of the right to a jury trial for victims of child abuse was an accidental outcome of the removal of a right to a jury trial for personal injury more broadly, such as adults suffering injury in motor accidents or through medical negligence. Given the unique circumstances of child abuse, where the personal injuries are not inflicted by accident but are inflicted by malicious intent and often are not a single isolated incident but are repeated assaults that occur within the context of broader psychological manipulation and abuse, often at a critical stage in a child's development, there is a far more sinister tone to the civil negligence for those matters and trial procedures should reflect that. Prior to 2003, survivors bringing actions for personal injury from child abuse had the right to be heard before a jury. This bill seeks to restore that right.

015 This bill seeks to address a so far unspoken and poorly understood barrier to victims accessing the court to have their evidence properly tested, and that is the question of the right of a defendant to stay proceedings. The right to stay proceedings, such as on the grounds of procedural unfairness, would occur to the defendant for a matter to be heard is a longstanding and sensible provision in our laws. A common reason cited is the passage of time. Usually this incorporates consequences of the passage of time such as witnesses growing old or forgetful or documents being lost or destroyed. However, where a defendant has acted intentionally to cause a delay in time, such as by concealing evidence, it is not just or proper that the defendant be permitted to profit from their sustained misconduct to evade responsibility for the initial child abuse. These are not isolated occurrences.

Since its inception in 2013, the Royal Commission into Institutionalised Responses to Child Sexual Abuse has conducted 44 cases, 11 formal papers, eight research papers, 5,669 private sessions and has received 18,598 written submissions. The royal commission has referred 1,619 matters to authorities including police.

Through these processes, the royal commission has heard extensive evidence on the actions of institutions to conceal crimes and the impact this has had on victims of abuse, including extending emotional trauma well into adulthood as well as obstructing justice by denying a right of access to the court. Given the widespread nature of this institutionalised behaviour and its significant impact on the community, it turns to this House to find a safe and sensible solution to deliver justice to vulnerable Queenslanders and to create a consequence for institutions of offending behaviour, as part of this House's duty to protect the community from serious offending.

This bill offers one possible solution to this problem; namely, by placing a restriction on the right of a defendant to obtain a stay of proceedings based on the passage of time, where that defendant is the cause of the passage of time. Further provisions are made to assist the court with interpreting such scenarios as where an institution has made an admission of fact, such as the fact of the child abuse or the fact of the institution's liability, that the institution can now benefit from a stay of proceedings based on a stated inability to now question the admitted facts.

As a safeguard to wider law and fair process, the provision is narrowly restricted only to cases of personal injury arising from child abuse. As well, this provision is restricted only to defendants who are institutions and not individuals. This provision has an exclusion for delays caused by the claimant.

The provision only applies to an institution that has caused a delay in commencement of the proceedings. It does not apply to an institution that has done the right thing—for example, reported the child abuse promptly, admitted the known facts and dealt honestly and openly with the victim or the victim's family. This legislative solution offered in this bill is measured and sensible.

Any argument against this reform, based on the potential creation of a procedural unfairness against a defendant, must be measured against the reality that the current system already creates and tolerates gross procedural unfairness against the claimant by denying them access to the court to present and test their evidence, in the circumstance where it is the defendant who has intentionally caused the very delay that permits the proceeding to be stayed.

I freely acknowledge that this proposed reform will quite rightly attract much scrutiny and debate, and well it should. At present a grave injustice is being perpetrated against survivors of child abuse around which there is no debate. The reform in this bill seeks to spark that debate.

This private member's bill is not an attack on our institutions. Quite the opposite; it is a means for institutions to take responsibility for the past and to begin rebuilding trust with stakeholders and the public. In fact, this bill will directly help many private institutions such as schools, churches, sporting and cultural organisations to act morally towards victims of abuse by delivering appropriate compensation without voiding their insurance policies.

I am proud to present a bill that focuses on the positives—on better enabling institutions to care for children as their first priority. I leave you with a real life example of what can be achieved and what has been achieved when an institution acts promptly on reported child abuse and puts the needs of the child first.

In 2007 and 2008, a teacher committed serious sexual offences against more than a dozen young girls in his classes at a primary school in this state. To protect the identities of these children I will not name this school. One of the girls, a victim of the abuse, attended a child protection presentation which was visiting her school. From this, she recognised that the teacher's conduct was sexual abuse and she bravely reported this to the police. The police believed her. They gathered evidence from the other girls and promptly arrested the offender. The offender pleaded guilty and was convicted and jailed.

The sexual assaults against the girls had been unquestionably traumatic. However there are elements of the institution's response to the reporting of the abuse which can hopefully lead to healing for these victims. Firstly, the victim were validated—they were believed by the adult to whom they reported. Secondly, the victims were able to see justice occur and see the offender punished. This reinforces in their developing minds that while the conduct of the one adult was harmful and wrong, other adults in their lives can be trusted and will protect them. Thirdly, the girls and their families were provided with immediate and ongoing counselling and care. It is well recognised medically that early intervention provides the best hope of full recovery.

The primary school and church in this case minimise the damage to the children and minimise the financial liability of the institution by ensuring the children were provided with prompt psychological care. By removing the offender, the institution ensured that further children were not abused. In so doing, they also naturally limited their future liability, such as from the victimisation of further children.

The scenario of prompt reporting, responsive care for victims and the timely punishment of offenders resulted in the most likely outcome of the best chance of healing for the girls, restriction upon the extent of offending by the offender as well as a minimisation of financial liability to the institution and restoration of stakeholder trust. It is possible. It can happen.

It is not a coincidence that this institutional response was the result of involvement in the matter by child safety advocates providing oversight and accountability. Consider the comparison of this scenario with the experience of abuse victims of the past few decades who were not believed, who were punished for reporting and who watched as their offenders were protected and promoted.

This bill creates financial consequences for misconduct and should act as a deterrent against misconduct and as an incentive for institutions to do the right thing. This bill aims to make child abuse more expensive than child protection and to motivate institutions to see child protection as an investment not as an expense. In doing this, the bill is an important pillar of child protection reform.

Finally, when any survivor comes forward to report child abuse, to seek medical and psychological health care and to hold the offender or the offending institution to account they should be met with dignity. They should be allowed access to a court for their evidence to be properly tested. The process will of course come with the inherit stresses which are unavoidable due to the nature of psychological trauma. However, where possible, this House should seek to reduce the trauma created by the administration of justice or by barriers to accessing justice. It is to everyone's benefit that the process of reporting child abuse and seeking justice should deliver healing and empowerment.

This bill goes further than other states or territories in responding to the shame that is child abuse in our community. This bill is an opportunity for Queensland to lead the nation on important reforms for child protection and equity of access to justice for victims of abuse. I commend the bill to the House.

First Reading

Mr PYNE (Cairns—Ind) (11.56 am): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Referral to the Legal Affairs and Community Safety Committee

Mr DEPUTY SPEAKER (Mr Crawford): Order! In accordance with standing order 131, the bill is now referred to the Legal Affairs and Community Safety Committee. >

~~<LIMITATION OF ACTIONS (INSTITUTIONAL CHILD SEXUAL ABUSE) AND OTHER LEGISLATION AMENDMENT BILL~~

~~LIMITATION OF ACTIONS AND OTHER LEGISLATION (CHILD ABUSE CIVIL PROCEEDINGS) AMENDMENT BILL~~